

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EUREKA TO PROHIBIT
EVICTIONS DURING THE COVID-19 STATE OF EMERGENCY FOR NONPAYMENT
OF RENT OR FOR NO-FAULT REASONS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, ordering Californians to stay at home except for essential business. On March 16, 2020, Governor Newsom issued Executive Order N-28-20 giving cities broad authority to enact eviction moratoria in the face of the COVID-19 public health crisis; and

WHEREAS, on March 19, 2020, the County of Humboldt issued a sweeping Shelter in Place Order; and

WHEREAS, On March 23, 2020, the Eureka City Manager, Dean Lotter, declared a state of emergency based on coronavirus (COVID-19) (hereinafter referred to as “the state of emergency”).

WHEREAS, On March 27, 2020, Governor Gavin Newsom issued an executive order banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. The order prohibits landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EUREKA DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. Findings and Purpose.

As a result of the state of emergency and the government-ordered precautions, many tenants have experienced sudden income loss, and further income impacts are anticipated, leaving tenants vulnerable to eviction. Given the severe consequence of evictions or increases in rent, including potential homelessness and potential for families moving into overcrowded conditions with the potential to spread the virus, we find that an unconditional moratorium on evictions that are based on non-payment of rent and no-fault terminations of tenancy is necessary while the public health emergency remains. During this state of emergency, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary displacement and homelessness.

SECTION 2. Urgent Need.

Based on the foregoing findings and purpose, all of which are deemed true and correct, this ordinance is urgently needed for the immediate preservation of public peace, health, safety or welfare. This ordinance will take effect immediately upon adoption and will

remain in effect through May 31, 2020. The effective period of this ordinance may be extended if deemed necessary.

SECTION 3. Prohibited Conduct.

A. Until after May 31, 2020, no landlord may endeavor to evict a tenant in either of the following situations:

1. for nonpayment of rent; or
2. for a no-fault eviction as defined herein.

Endeavors to evict that are prohibited by this ordinance includes issuance of a three-day notice to pay rent or quit or a notice of no-fault termination of tenancy after the effective date of this ordinance, or attempting to enforce a termination of tenancy through an unlawful detainer filing based on any notice issued but not yet expired prior to the effective date of this ordinance.

B. Nothing in this Ordinance will relieve the tenant of liability for the unpaid rent, payment of which the landlord may seek after May 31, 2020. However, with respect to any Delayed Payment covered by this Ordinance, a tenant may not be deemed in default of rent payment obligations unless the tenant fails to tender the full amount of the Delayed Payment within 180 days of May 31, 2020, or within 180 days of the date upon which an extension of this Ordinance expires, whichever is later. Further, a landlord may not charge or collect a late fee for a Delayed Payment as defined in this ordinance. Any three-day notices to pay or quit or no-fault eviction notices served prior to the effective date of this ordinance but not yet expired are automatically deemed served upon the expiration of this Ordinance on May 31, 2020.

C. Until after May 31, 2020, the City hereby suspends:

1. the discontinuation or shut off of water service for residents and businesses in the City for non-payment of water and sewer bills; and
2. the imposition of late payment penalties or fees for delinquent water and/or sewer bills.

D. Until after May 31, 2020, no landlord may endeavor to raise rent.

SECTION 4. Notice to Tenants.

Owners of rental property must serve all tenants with written notice of the provisions of this Ordinance and the contact information for the owner, landlord, or agent to whom documentation of a Delayed Payment must be provided as specified below. Failure to provide such notice prior to service of a notice to pay rent or quit will be a complete defense to any unlawful detainer action based upon failure to pay rent that accrues during the effective period of this Ordinance.

SECTION 5. Definitions.

- A. "Delayed Payment" includes, but is not limited to, a payment made late as a result of any of the following:
1. Tenant lost household income as a result of being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 2. Tenant lost household income as a result of a lay-off, loss of hours, loss of business, or other income reduction resulting from COVID-19 or the state of emergency;
 3. Tenant lost household income due to compliance with a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others during the state of emergency;
 4. Tenant lost household income as a result of caring for minor children affected by school, pre-school and/or childcare closures; or
 5. Tenant lost household income as a result of the discontinuance or reduction of a government aid program.

To qualify as a Delayed Payment under this ordinance, a tenant must notify the landlord in writing of lost income and inability to pay full rent and provide documentation to support the claim on or before May 31, 2020, or prior to the date of actual displacement of the tenant by execution of an unlawful detainer judgment, whichever is later. For purposes of this section, "in writing" may include email, text or online communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email, text or an online program. Any medical or financial information provided to the landlord must be held in confidence, and only used for evaluating the tenant's claim for protection under this Ordinance.

- B. "No-fault eviction" as used in this Ordinance refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to California Civil Code Section 1946.2(b)(2) and Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.

SECTION 6. Application.

This Ordinance applies only to nonpayment eviction notices, no-fault eviction notices as defined herein, and unlawful detainer actions based on such notices, served or filed on or after the date of introduction of this ordinance through May 31, 2020. With respect to any Delayed Payment covered by this Ordinance, a tenant will not be deemed in default of rent payment obligations unless the tenant fails to tender the full amount of the Delayed

Payment within 180 days of May 31, 2020, or within 180 days of the date upon which an extension of this Ordinance expires, whichever is later.

SECTION 7. Remedies.

In the event of a violation of this Ordinance, an aggrieved tenant may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages (including damages for mental or emotional distress as specified below), and whatever other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award may only be trebled if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of this Ordinance. The prevailing party will be entitled to reasonable attorney's fees and costs pursuant to order of the court. The remedy available under this section will be in addition to any other existing remedies which may be available to the tenant under local, state or federal law. In addition, this Ordinance grants a defense to eviction to any unlawful detainer actions in violation of this Ordinance.

SECTION 8. Severability.

If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision will not affect the validity of the remaining portions or applications of the ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Passed, Approved and Adopted by the City Council of the City of Eureka in the County of Humboldt, State of California, on the ____ day of _____, 2020 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ____ day of _____, 2020, and hereby approved.

Susan Seaman, Mayor

Approved as to Administration:

Approved as to form:

Dean R. Lotter, City Manager

City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the _____
day of _____, 2020.

Pamela J. Powell, City Clerk